TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, [redacted] 1965

No. [redacted] 51

Petition Not Printed
Response Not Printed

EDDIE J. HICKS, PETITIONER

vs.

DISTRICT OF COLUMBIA

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

PETITION FOR CERTIORARI FILED NOVEMBER [redacted], 1965
CERTIORARI GRANTED FEBRUARY 1, 1966

Supreme Court of the United States

OCTOBER TERM, 1964

No. 867

EDDIE J. HICKS, PETITIONER

vs.

DISTRICT OF COLUMBIA

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

INDEX

	Original	Print
Record from the District of Columbia Court of Appeals in Case #3340		
Agreed statement on appeal	1	1
Attachments: Record from the District of Columbia Court of General Sessions in Case #DC-16577-63	4	2
Caption (omitted in printing)	4	2
"A"—Information	5	3
Motion to set aside finding of guilty and for judgment of dismissal, or for new trial, and motion for arrest of judgment	7	5

	Original	Print
Record from the District of Columbia Court of Appeals in Case #3340—Continued		
Order denying motion	12	8
"B"—Notice of appeal	13	9
Designation of record (omitted in printing)	14	10
"C"—Statement of errors claimed	16	10
Clerk's certificate (omitted in printing)	18	11
Minute entry of argument (omitted in printing)	20	11
Opinion, Hood, Ch. J.	21	12
Judgment	23	15
Motion for rehearing, opposition to motion for rehearing and order denying motion for rehearing (omitted in printing)	24	15
Clerk's certificate (omitted in printing)	40	15
Proceedings in the United States Court of Appeals for the District of Columbia Circuit in Case #18445	41	16
Petition for allowance of appeal from the District of Columbia Court of Appeals	41	16
Order denying allowance of appeal	43	17
Petition for reconsideration en banc of denial of petition for allowance of appeal	45	18
Affidavit of Charles W. Wolfram	55	23
Affidavit of Julie N. Barrows	60	26
Order denying petition for reconsideration en banc	64	28
Motion of petitioner to vacate and reenter order	65	30
Order vacating and reentering order denying petition for reconsideration en banc	69	33
Designation of record (omitted in printing)	71	35
Clerk's certificate (omitted in printing)	74	35
Order granting motion for leave to proceed in forma pauperis and granting petition for writ of certiorari	75	36

[fol. 1]

IN THE DISTRICT OF COLUMBIA COURT OF APPEALS

Ct. of App. No. 3340

[File Endorsement Omitted]

EDDIE J. HICKS, APPELLANT

vs.

UNITED STATES, DISTRICT OF COLUMBIA, APPELLEE

AGREED STATEMENT ON APPEAL—filed July 9, 1963 and approved July 10, 1963

The undersigned, Charles W. Wolfram, Esquire, attorney for the appellant and Ted D. Kuemmerling, Esquire, Assistant Corporation Counsel and attorney for the appellee, pursuant to Rule 26 of the District of Columbia Court of Appeals, do hereby submit this agreed statement of the above-mentioned case with attachments in lieu of a record on appeal.

I. *Source of the Questions Presented.*

On Wednesday, June 12, 1963, Eddie J. Hicks (hereinafter sometimes called appellant) was arrested and charged by information (Attachment A) with the crime of vagrancy under Section 22-3302 of the District of Columbia Code. The same afternoon appellant was brought before Judge Thomas C. Scalley in the Criminal Division of the District of Columbia Court of General Sessions [fol. 2] and plead not guilty. Upon the trial appellant was found guilty by Judge Scalley sitting without a jury and sentencing was set down for Thursday, June 13, 1963, and appellant was remanded to jail in lieu of $300.00 bond.

On Thursday, June 13, 1963, appellant was again brought before Judge Scalley and imposition of sentence was suspended.

Thereafter, on Saturday, June 15, 1963, appellant through his attorney, Charles W. Wolfram, Esquire, filed in the office of the Clerk of the Court of General Sessions a motion in arrest of judgment on the grounds that the Act of Congress under which appellant was charged, tried and convicted was unconstitutional. Hearing on the motion was set down and had on Thursday, June 20, 1963, before Judge Scalley who denied the motion that same day.

On Saturday, June 29, 1963 appellant through his attorney filed two copies of a Notice of Appeal (Attachment B) in the Office of the Clerk of the Court of General Sessions.

On Friday, July 5, 1963, appellant through his undersigned attorney filed three copies of a Statement of Errors Claimed (Attachment C) in the Office of the Appeals Clerk of the District of Columbia Court of Appeals.

II. *Attachments.*

A) Information with notations in Case Number DC 16577-'63.

B) Appellant's Notice of Appeal.

C) Appellant's Statement of Errors Claimed.

[fol. 3] This agreed statement, together with the above-listed attachments shall constitute the record on appeal in the above-entitled cause.

/s/ Charles W. Wolfram, Esquire
Attorney for Appellant

/s/ Ted D. Keummerling, Esquire
Attorney for Appellee

Approved this 10th day of July, 1963.

/s/ Thomas C. Scalley
THOMAS C. SCALLEY
Judge of the District of Columbia Court of General Sessions

[fol. 4] [Caption omitted]

ATTACHMENT "A" TO AGREED STATEMENT ON APPEAL

In the District of Columbia Court of General Sessions

CRIMINAL DIVISION

THE DISTRICT OF COLUMBIA, ss: APRIL TERM, A. D. 1963

Information - filed D.C. Code, c. 12, 1963

CHESTER H. GRAY, Esq., *Corporation Counsel*, by CLARK F. KING / ROBERT M. CAMPBELL

Assistant Corporation Counsel, who for the District of Columbia prosecutes in this behalf in his proper person, comes here into Court, and causes the Court to be informed, and complains that

Eddie J. Hicks

late of the District of Columbia aforesaid, on or about the 19th day of MAY in the year A. D. nineteen hundred and sixty-three, in the District of Columbia aforesaid, and on Dupont Circle ~~street, avenue,~~ north, ~~south, west, east,~~ was then and there, and has been since that day and still is a vagrant, to wit; a person ~~known to be a pickpocket, thief, burglar, confidence operator and felon~~ either by his own confession or by his having been convicted in the District of Columbia or elsewhere of any of said offenses, and having no lawful employment and having no lawful means of support realized from a lawful occupation or source, and not giving a good account of himself when found loitering around in any park, highway, public building and other public place, store, shop and reservation, and at any public gathering or assembly.

~~leading an immoral and profligate life, who has no lawful employment and who has no lawful means of support realized from a lawful occupation and source.~~

~~who keeps, and operates, and frequents, and lives in and is employed in a house and other establishment of ill fame and who engages in and commits acts of fornication and perversion for hire.~~

~~who frequents, and loafs, and loiters and idles in and around and is the occupant of and is employed in a gambling establishment and an establishment where intoxicating liquor is sold without a license.~~

~~wandering abroad and lodging in a grocery and provision establishment, vacant house, other vacant building, out house, market place, shed barn, garage, gasoline station, parking lot, in the open air, and not giving a good account of himself.~~

~~and wandering abroad and begging and who goes about from door to door and places himself in and on any highway, passage and other public place to beg or receive alms.~~

~~and who wanders about the streets at late and unusual hours of the night without any visible and lawful business and not giving a good account of himself.~~

~~and who wanders abroad and lodges in Public Park, and~~ public comfort stations, living upon the charity of others, and who lives idly and without any settled home, and otherwise leading a profligate life.

~~being then and there a licensed pharmacist did make a certain fraudulent representations for the purpose of procuring a certain poison, to wit: did deliver to another person a certain drug, poison, to wit: in a certain container and did then and there fail and neglect to mark or said container the name of the drug contained therein and the directions for using the same and the word poison~~

~~then and there having a permit for the sale of poison as an insecticide did sell certain poisonous substances and did fail to record in a book for that purpose, the name of the article, the quantity delivered, the purpose for which it was to be used, the date of delivery, the name and address of the person for whom it was procured and the name of the individual personally dispensing the same~~

~~being then and there the owner and manager of a certain pharmacy and drug store did cause and permit a certain other person not then and there a licensed pharmacist, to compound, dispense, and sell at retail a certain drug, medicine, and poison.~~

~~Contrary to and in violation of an Act of Congress Police Regulation in such case made and provided, and constituting a law of the District of Columbia.~~

CHESTER H. GRAY,
Corporation Counsel

Personally appeared J. E. Thomas this 13th day of JUNE, A. D., 1963, and made oath before me that the facts set forth in the foregoing information are true, and those stated upon information received he believes to be true.

Assistant Corporation Counsel in and for the District of Columbia